No. 93-144

In The
Supreme Court of the United States

October Term, 1993

DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,
Petitioner,

v.

KURTH RANCH;
KURTH HALLEY CATTLE COMPANY;
RICHARD M. and JUDITH KURTH, husband and wife;
CLAYTON H. and CINDY K. HALLEY, husband and wife;
ROBERT G. DRUMMOND, Trustee,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

AMICUS CURIAE BRIEF BY THE STATES OF KANSAS, COLORADO, GEORGIA, IDAHO, MINNESOTA, NEBRASKA, AND TEXAS IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI BY THE STATE OF MONTANA

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The States of Kansas, Colorado, Georgia, Idaho, Minnesota, Nebraska, and Texas, through their respective Attorneys General, submit this brief *amicus curiae* pursuant to S. Ct. R. 37.2 in support of the petition for writ of certiorari by the State of Montana.

QUESTION FOR REVIEW

In its petition for writ of certiorari, the State of Montana presents the following question for review (Brief in Support of Application of Petition for Writ of Certiorari [hereinafter "Brief"] at i):

> CAN ASSESSMENT OF A STATE TAX ON THE POSSESSION AND STORAGE OF DANGEROUS DRUGS, IMPOSED SEPARATE AND APART FROM ANY CRIMINAL PENALTY, VIOLATE THE DOUBLE JEOPARDY PROHIBITIONS OF THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION?

The State of Montana seeks review of a decision of the Ninth Circuit Court of Appeals affirming lower court decisions invalidating in large part Montana's drug tax assessment issued to the debtors/Kurths as allegedly violative of the double jeopardy clause of the Fifth Amendment of the United States Constitution. The Court of Appeals relied on this Court's decision in *U.S. v. Halper*, 490 U.S. 435 (1989), to determine that Montana's tax assessment constituted additional "punishment" for conduct for which the Kurths had already been criminally punished. *Kurth*, 986 F.2d at 1312.

THE INTERESTS OF THE *AMICI CURIAE*

All *amici* have enacted laws imposing a tax on the possession, sale, *etc.*, of controlled substances, and seek the efficient administration and enforcement of such laws.

Citations to those laws—and to the laws of the twenty (20) other States which have enacted drug tax statutes or which otherwise can or do tax the possession or sale of controlled substances—are contained in the appendix of this brief. *Amici* have also enacted other laws imposing taxes—*e.g.*, income, sales and use, property, franchise, cigarette, liquor, gasoline, special fuel, withholding, *etc.*—and likewise seek the efficient administration and enforcement of such laws.

The decision of the Ninth Circuit Court of Appeals in this case imposes a legally inappropriate double jeopardy consideration on the administration and enforcement of drug and other taxes. The case is binding precedent in future cases in the Ninth Circuit, and persuasive authority elsewhere where the double jeopardy question at issue in this case remains open. As such, the decision effectively frustrates the administration and enforcement of drug tax laws nationwide. The decision also effectively frustrates the administration and enforcement of tax laws generally because the decision can be read to reach tax cases generally.

SUMMARY OF THE ARGUMENT

This Court has by Rule set out general standards for the granting of petitions for writs of certiorari. Certain of those standards apply here. First, the petition for certiorari presents a question which has not but should be determined by this Court: whether this Court's double jeopardy decision in the *Halper* case applies to tax matters. Resolution of this question is important because of the effect the decision below—applying *Halper*—will have on the administration and enforcement of drug and other tax matters. Second, the decision below is patently in conflict with numerous decisions of courts of last resort and other courts on the question whether, and the extent to which, tax matters are subject to a double jeopardy analysis. Finally, the decision below departed from the usual course of ju-

dicial proceedings by improperly importing the *Halper* double jeopardy analysis into a tax matter, by extending *Halper* beyond its facts, and by failing to accord Montana's tax assessment the presumption of constitutionality required of State tax enactments.

ARGUMENTS AND AUTHORITIES:

THIS COURT SHOULD GRANT THE STATE OF MONTANA'S PETITION FOR A WRIT OF CERTIORARI

This Court's Rule 10 applies to the grant of petitions for writ of certiorari.[1] *Amici* submit that the applicability to

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[1] This Court's Rule 10 relating to the grant of petitions of writ of certiorari provides as follows:

> A review on writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only when there are special and important reasons therefore. The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered:
>
> (a) When a United States court of appeals has rendered a decision in conflict with the decision of another United States court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of the Court's power of supervision.
>
> (b) When a state court of last resort has decided a federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.
>
> (c) When a state court or a United States court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way that conflicts with applicable decisions of this Court.

this case subsections (a)—decisions in conflict and departure from accepted judicial proceedings—and (c)—unresolved and important federal questions—compel this Court to grant the State of Montana's petition for a writ of certiorari:

I. THE COURT OF APPEALS DECIDED A QUESTION WHICH HAS NOT BUT SHOULD BE DECIDED BY THIS COURT—*i.e.* THE APPLICABILITY OF THIS COURT'S DECISION IN *U.S. v. Halper*, 490 U.S. 435 (1989), TO TAX ASSESSMENTS

This Court has not previously determined whether the double jeopardy clause—with its attendant considerations—applies to what are plainly civil, administrative tax proceedings. The Court of Appeals in the case at bar, however, extended this Court's Fifth Amendment double jeopardy ruling in *U.S. v. Halper*, 490 U.S. 435 (1989), to a drug tax matter, and by similarly erroneous extension, to tax matters generally. The correctness of this unwarranted extension of *Halper* should be determined by this Court because the ruling will frustrate tax administration and enforcement and create uncertainty in the area.[2]

[2] The commentators have recognized uncertainty concerning the reach of *Halper*. *E.g.*, Linda S. Eads, *Separating Crime from Punishment: The Constitutional Implications of United States v. Halper*, 68 Washington U.L. Quarterly 929, 977-91 (1990); Elizabeth S. Jahncke, *United States v. Halper, Punitive Civil Fines, and the Double Jeopardy and Excessive Fines Clauses*, 66 New York U.L. Rev. 112, 114 (1991); Note, Nelson T. Abbott, *United States v. Halper: Making Double Jeopardy Available in Civil Actions*, 6 Brigham Young U.J. Public Law 551, 561-73 (1992); Note, Lynn C. Hall, *Crossing the Line Between Rough Remedial Justice and Prohibited Punishment: Civil Penalty Violates the Double Jeopardy Clause*, 65 Washington L. Rev. 437, 445-453 (1990); Note, Andrew Z. Glickman, *Civil Sanctions and the Double Jeopardy Clause: Applying the Multiple Punishment Doctrine to Parallel Proceedings After United States v. Halper*, 76 Virginia L. Rev. 1251, 1267-1284 (1990); Note, Lauren O. Clapp, *United States v. Halper: Remedial Justice and Double Jeopardy*, 68 North Carolina L. Rev. 979, 992-94 (1990).

Absent review by this Court, the frustration and uncertainly will continue. This Court has recognized the problems caused the States by the possession and sale of controlled substances. *E.g., Harmelin v. Michigan*, __ U.S. __, 111 S.Ct. 2680, 115 L. Ed. 2d 836, 870 (1991)(Kennedy, J., concurring). *See also Treasury Employees v. Von Raab*, 489 U.S. 656, 668 (1989). The problems caused the States by the possession and sale of controlled substances will undoubtedly continue. With continued possession and sale of controlled substances will come continued drug tax assessments by the States; *amici* do not anticipate that current drug tax laws in the various States will be repealed en masse. As such, the decision below directly impacts the administration and enforcement of drug tax laws.

This Court has also recognized the substantial interests that the States have in raising revenue by taxation. *E.g., Commonwealth Edison Co. v. Montana*, 453 U.S. 609, 622-23 (1981). Clearly, these other tax laws will also not be generally repealed by the States. Given that the critical connection in *Halper* between the prior proceeding and the subsequent proceeding is not the type of tax involved, but rather whether the subsequent proceeding constitutes "punishment," the impact of the Court of Appeals' decision is not limited to *drug* tax cases. As such, the potential impact of the decision on tax matters generally is virtually limitless. Regardless of the correctness of the Court of Appeals' decision, the Court should end the frustration and uncertainty by accepting the case for hearing on the merits.

II. THE COURT OF APPEALS' HOLDING THAT *Halper* APPLIES TO BAR MONTANA'S DRUG TAX ASSESSMENT CONFLICTS WITH NUMEROUS DECISIONS OF THE COURTS OF LAST RESORT AND THOSE OF OTHER COURTS INCLUDING THOSE OF THE STATE OF MONTANA HOLDING TO THE CONTRARY

In its brief in support of its petition for a writ of certiorari, the State of Montana sets out at length the determination by the Montana Supreme Court in *Sorenson v. State Department of Revenue*, 254 Mont. 61, 836 P.2d 29 (1992), that this Court's decision in *Halper* does not apply to a drug tax assessment, and highlights the patent and irreconcilable conflict caused by the decision of the Court of Appeals (Brief at 4-6). The State of Montana also lists the numerous other decisions—federal and State—with which the Court of Appeals' decision plainly conflicts (Brief at 7-11).[3]

Not fully elaborated on in the State of Montana's brief, however, is that the other decisions cited therein and other decisions not cited reject the premise of the court's decision below that a drug tax assessment constitutes a "punishment," penalty, or sanction:

In *Rehg v. Ill. Dept. of Revenue*, 152 Ill. 2d 504, 178 Ill. Dec. 731, 605 N.E. 525 (1992), the Illinois Supreme Court first determined that the drug tax and penalty there challenged were not so severe as to amount to a "criminal penalty" and therefore the drug tax law was not unconstitutional on its face. 650 N.E.2d at 533. The Court next

[3] In *Austin v. United States*, 61 U.S.L.W. 4811, No. 92-6073 (U.S. Sup. Ct. June 28, 1993), this Court relied on a conflict among the federal circuits in granting certiorari. 61 U.S.L.W. at 4812.

considered the constitutionality of the tax *penalty* as applied to the taxpayer. The Court clearly assumed, however, the validity of the *tax* itself, noting that the failure to pay the tax was "a loss to the State of $42,000 in tax revenue." *Id.* at 536.[4] The Ninth Circuit's decision in *Kurth* plainly conflicts with the Illinois Supreme Court's decision in *Rehg*.

In *State v. Gallup*, 500 N.W.2d 437 (Iowa 1993), the Iowa Supreme Court rejected the claim that the drug tax was violative of due process as a punishment not a tax. The Court held, *inter alia*, that (*id.* at 445):

> We see no substantial difference between chapter 421A and the federal marijuana statute that was upheld in [*U.S. v.*] Sanchez [, 340 U.S. 42 (1950)]. We view the chapter 421A tax and penalty as civil, rather than as criminal, sanctions and as a proper exercise of the State's taxing power.

The Ninth Circuit's decision in *Kurth* plainly conflicts with the Iowa Supreme Court's decision in *Gallup*.

In *State v. Berberich*, 248 Kan. 854, 862-68, 811 P.2d 1192 (1991), the Kansas Supreme Court, rejected the claim that the drug tax was a penalty contrary to the due process clause, relying on this Court's decision in *U.S. v. Sanchez*, 340 U.S. 42 (1950), upholding the now-repealed Marijuana Tax Act against a similar challenge. *Accord State v. Matson*, 14 Kan. App. 2d 632, 637-40, 798 P.2d 488 (1990). The Ninth Circuit's decision in *Kurth* plainly conflicts with the Kansas Supreme Court's and the Kansas Court of Appeals' decisions in *Berberich* and *Matson*.

[4] The rest of the Court's discussion directed at the propriety of the four-fold penalty for the failure to timely pay the tax, 605 N.E.2d at 534-39, is not relevant to the case at bar. The Court will recall that the case at bar involves the constitutionality of the State of Montana's *tax* assessment, not its assessment of *penalty*.

In *Hyatt v. State Dept. of Revenue,* 597 So. 2d 716, 718-19 (Ala. App. 1992), the Alabama Court of Appeals rejected the defendant's implicit claim that imposition of the tax and penalty violated double jeopardy, expressly noting this Court's decision in *Halper (id)*:

> We consider the [drug tax] Act in this case to be remedial in that it is an effort to recover from those who reap great profits from their illegal and deadly transactions, taxes which they would otherwise escape. Such is the declared purpose of the tax. [Citation omitted] A penalty for nonpayment of the tax, though heavy in this case, is common to all taxpayers who fail to pay their lawful taxes. [Citation omitted]

The Ninth Circuit's decision in *Kurth* plainly conflicts with the Alabama Court of Appeals' decision in *Hyatt.*

In *Birney v. State,* 594 So. 2d 120, 123-24 (Ala. App. 1991), *cert. denied* (1992), the Alabama Court of Appeals held *Halper* inapplicable to the assessment of drug tax, and rejected the double jeopardy claim, explaining *(id.)*:

> In this case, the [drug tax] Act does not impose liability that is fundamentally punitive. Rather, the Act is a remedial measure whereby those who have previously escaped taxation may finally be assessed the amount they owe, with the same penalties for nonpayment to which all taxpayers are subject. [Citation omitted] We find that the Act's remedial purpose far outweighs any punitive effect it may have.

The Ninth Circuit's decision in *Kurth* plainly conflicts with the Alabama Court of Appeals' decisions in *Hyatt* and *Birney.*

In *Harris v. State, Dept. of Revenue,* 563 So. 2d 97, 98, *cert. denied* (Fla. App. 1990), the Florida Court of Appeals rejected the taxpayer's claim that the law "imposes an im-

proper penalty or fine and not a tax," relying on this Court's decision in *Sanchez,* 340 U.S. 42 (1950), noted above. The Ninth Circuit's decision in *Kurth* plainly conflicts with the Florida Court of Appeals' decision in *Harris.*

In *Jackson v. Sharp,* 846 S.W.2d 144 (Tex. App. 1993), the Texas Court of Appeals rejected the claim—in another context—that Texas' drug tax law was not a true tax finding little difficulty denominating the law a "valid tax." *Id.* at 147. The Court noted, *inter alia,* that (*id.* at 146):

> The Controlled Substances Tax appears to be a tax on its face and operates as a revenue-generating measure. [Statutory citation omitted] We decline to invalidate it as a tax simply because it may also have been intended to deter the possession or distribution of illegal drugs or to make lawbreaking less profitable.

The Ninth Circuit's decision in *Kurth* plainly conflicts with the Texas Court of Appeals' decision in *Jackson.*

In *State v. Riley,* 166 Wis. 2d 299, 479 N.W.2d 234 (1991), *rev. denied* (1992), the Wisconsin Court of Appeals rejected the claim that *Halper* did not permit the imposition of a one-for-one fine, *i.e.* a fine equal in amount to the amount of the drug tax that he had failed to pay, 479 N.W.2d at 235-36, noting that (*id.* at 236):

> Unlike the penalty in *Halper,* which was so grossly disproportionate [to] the government's actual damages, the penalty assessed against Riley was merely equal to the tax he failed to pay. Indeed, the penalty is less burdensome than the "fixed-penalty-plus-double-damages" provisions noted with approval by the *Halper* court. We agree with the state that this "one-for-one penalty" cannot reasonably be characterized as "so extreme and so divorced from the Government's damages" that it may be considered punitive. *Halper,* 490 U.S. at 442.

The Court implicitly assumed the validity of the underlying drug tax itself. The Ninth Circuit's decision in *Kurth* plainly conflicts with the Wisconsin Court of Appeals' decision in *Riley*.

The Court of Appeals' decision plainly conflicts with numerous decisions from several States including the State of Montana. This Court should take the opportunity, as it has in the past, to resolve the conflict.

III. THE COURT OF APPEALS' DECISION SANCTIONS SUCH A DEPARTURE FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS—*i.e.* THE APPLICATION OF A DOUBLE JEOPARDY ANALYSIS TO CIVIL, ADMINISTRATIVE TAX PROCEEDINGS—AS TO CALL FOR AN EXERCISE OF THIS COURT'S POWER OF SUPERVISION

The Court of Appeals' application of *Halper's* double jeopardy analysis to a civil, administrative tax matter, sanctions such an unusual and extreme departure from the usual course of judicial proceedings as to warrant this Court's exercise of its power of supervision. The Court of Appeals not only improperly imported a double jeopardy consideration into the analysis of a plainly civil, administrative tax proceeding, but extended this Court's *Halper* decision beyond its terms. The Court also failed to accord the State of Montana's drug tax assessment the presumptive constitutionality required by this Court in the review of State tax enactments.

In *U.S. v. Sanchez*, 340 U.S. 42 (1950), discussed at length by the State of Montana in its Brief (at 8-9), this Court held constitutional section 7 of the "Marijuana Tax Act," previously 26 U.S.C. § 2590, in a suit brought by the United States to recover $8,701.65 in tax and interest. Defendants there claimed that the tax was unconstitutional

"on the ground [that] it levied a penalty, not a tax." 340 U.S. at 43. Determining the claim meritless, this Court cautioned (*id.* at 44-45):

> First. It is beyond serious question that a tax does not cease to be valid merely because it regulates discourages, or even definitely deters the activities taxed, even though the revenue obtained is obviously negligible, or the revenue purpose of the tax is secondary. [Citation omitted.] The principle applies even though the revenue obtained is obviously negligible, [citation omitted], or the revenue purpose of the tax may be secondary, [citation omitted].
>
> * * *
>
> The tax in question is a legitimate exercise of the taxing power despite its collateral regulatory purpose and effect.[5]

The vitality of *Sanchez* was confirmed in this Court's decision in *City of Pittsburgh v. Alco Parking Corporation*, 417 U.S. 369 (1974). This Court considered a due process attack on a "20% tax on the gross receipts obtained from all transactions involving the parking or storing of a motor vehicle at a nonresidential parking place in return for a consideration." *Id.* at 370. The State's highest court struck the tax as unconstitutional, holding the law so unreasonably burdensome as to amount to a taking of property without due process of law (*id.* at 373).

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[5] As noted above, *Sanchez* has been cited with approval by a number of State appellate courts considering the constitutionality of the various States' drug tax laws. *Harris v. State*, 563 So.2d 97, 99, *cert denied* (Fla. App. 1990); *State v. Gallup*, 500 N.W.2d 437 (Iowa 1993); *State v. Matson*, 14 Kan. App. 2d 632, 639-40, 798 P.2d 488 (1990); *State v. Berberich*, 248 Kan. 854, 866, 811 P.2d 1192 (1991); *Sorenson v. State Department of Revenue*, 254 Mont. 61, 836 P.2d 29, 31-32 (1992).

This Court reversed, explaining (*id.* at 375, 376):

> There are several difficulties with this position. The ordinance on its face recites that its purpose is "[t]o provide for the general revenue by imposing a tax . . . ," and in sustaining the ordinance against an equal protection challenge, the state court itself recognized that commercial parking lots are a proper subject for special taxation and that the city had decided, "not without reason, that commercial parking operations should be singled out for special taxation to *raise revenue* because of traffic related problems engendered by these operations." 453 Pa, at 257, 307 A2d, at 8958 (emphasis added).
>
> It would have been difficult from any standpoint to have held that the ordinance was in no sense a revenue measure. The 20% tax concededly raised substantial sums of money; and even if the revenue collected had been insubstantial [citation omitted], or the revenue purpose only secondary, [citation omitted], we would not necessarily treat this exaction as anything but a tax entitled to the presumption of the validity accorded other taxes imposed by a State.
>
> * * *
>
> [T]he judiciary should not infer a legislative attempt to exercise a forbidden power in the form of a seeming tax from the fact, alone, that the tax appears excessive or even so high as to threaten the existence of an occupation or business.[6]

[6] This Court has accorded similar deference to the validity of tax enactments against equal protection, *e.g., Kahn v. Shevin,* 416 U.S. 351, 355-56 (1974), and commerce clauses attacks, *e.g., Commonwealth Edison Co. v. Montana,* 453 U.S. 609, 622-25 (1981). *See also Regan v. Taxation with Representation,* 461 U.S. 540, 546-48 (1983).

The Court of Appeals in the case at bar, however, referred to *Sanchez* almost in passing, distinguishing it on the sole ground that it did not involve a prior criminal conviction of the taxpayer. *Kurth,* 986 F.2d at 1311.

Nor did this court in *Halper* state or even suggest that a double jeopardy analysis applies to tax matters such as in the case at bar. In fact, this Court plainly cautioned against an overbroad reading of its decision (490 U.S. at 449):

> What we announce now is ***a rule for the rare case,*** the case such as the one before us, where a fixed-penalty provision subjects a prolific but small-gauge offender to a sanction overwhelmingly disproportionate to the damages he has caused [emphasis supplied].

In addition to the required limited application of *Halper,* this Court long ago recognized the broad presumptive validity of State tax enactments:

> When the constituted authority of the State undertakes to exert the taxing power, and the question is brought before this court, every presumption in its favor is indulged, and only demonstrated usurpation of power will authorize judicial interference with legislative action.

Walters v. St. Louis, 347 U.S. 231, 237-38 (1954) (quoting *Green v. Frazier,* 253 U.S. 233, 239 [1920]). The Court of Appeals wholly failed to indulge this presumption.

In sum, the Court of Appeals failed to recognize that this Court—in *Sanchez* and its progeny, and as a general

matter—have deferred to the presumptive validity of State legislative tax enactments. Nor is there any basis under *Halper* for the extension of double jeopardy principles to plainly civil, administrative tax matters. This Court should exercise its powers of supervision to correct the Court of Appeals' departure from these accepted principles.

CONCLUSION

This Court's Rule 10 permits the exercise of jurisdiction over this case by the granting of the State of Montana's petition for a writ of certiorari. The Court should grant the petition due to the significant and far-reaching consequences for State tax enforcement caused by the Court of Appeals' misapplication of a double jeopardy analysis to a presumptively legitimate State tax assessment. The Court should also grant the petition due to the decision's patent and irreconcilable conflict with numerous State court decisions. Finally, the Court should grant the petition due to the Court of Appeal's departure from the accepted course of judicial proceedings, *i.e.* the decision is very clearly wrong.

Respectfully submitted,

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APPENDIX

1. ALABAMA	Code of Alab. 1989 Supp. § 40-17A-1 *et seq.*
2. ARIZONA	Ariz. Rev. Stat. 1989 Supp. 42-1201 *et seq.*
3. COLORADO	Col. Rev. Stat. 1989 Supp. § 39-28.7-101 *et seq.*
4. CONNECTICUT	Conn. Gen. Stat. § 12-650 *et seq.*
5. FLORIDA	Fla. Stat. Ann. § 212.0505
6. GEORGIA	Ga. Code Ann. 37 § 48-15-1 *et seq.*
7. IDAHO	Id. Code § 63-4201 *et seq.*
8. ILLINOIS	Ill. Stat. Ann. 1989 Supp. 120 ¶ 2151 *et seq.*
9. INDIANA	Ind. Code § 6-7-3
10. IOWA	Chapt. 421A § 421A.1 *et seq.*
11. KANSAS	Kan. Stat. Ann. § 79-5021 *et seq.*
12. LOUISIANA	La. Stat. Ann. (Civil) § 47:2601 *et seq.*
13. MAINE	Me. Rev. Stat. Ann. 1989 Supp. 36 § 4433 *et seq.*
14. MINNESOTA	Minn. Stat. Ann. 1990 Supp. § 297D.01 *et seq.*
15. MONTANA	Mont. Code Ann. 1989 Supp. § 15-25-101 *et seq.*
16. NEBRASKA	Nebr. Rev. Stat. § 77-4301 *et seq.*
17. NEVADA	Nev. Rev. Stat. Ann. 1989 Supp. § 372A.010 *et seq.*
18. NEW MEXICO	N. Mex. Stat. Ann. § 7-18A-1 *et seq.*
19. NORTH CAROLINA	Gen. Stat. of N.C. § 105-113.105 *et seq.*
20. NORTH DAKOTA	Century Code Ann. 1989 Supp. § 57-36.1-01 *et seq.*
21. OKLAHOMA	Okl. Stat. Ann. 68 § 450.1 *et seq.*

22. ***RHODE ISLAND***	Gen. Laws of R.I. 1989 Supp. § 44-49-1 *et seq.*
23. ***SOUTH CAROLINA***	S.C. Code § 12-21-5010 *et seq.*
24. ***TEXAS***	Vernon's Tex. Code Ann. (Tax) 1990 Supp. § 159.001 *et seq.*
25. ***UTAH***	Utah Code Ann. 1989 Supp. 59-19-101 *et seq.*
26. ***WISCONSIN***	Wisc. Stat. Ann. § 139.87 *et seq.*
27. ***WYOMING***	Wyo. Stat. Ann. 1989 Supp. § 39-6-401 *et seq.*